

The Official Action rejects claims 1, 2, 4-11, 13-20, 22-29, 31-38, 40-47 and 49-54 under the doctrine of obviousness-type double patenting over claims 1-10 of U.S. Patent No. 7,524,712 to Tanaka. The Applicant respectfully submits that the claims of the subject application are patentably distinct from the claims of the Tanaka '712 patent.

As stated in MPEP § 804, under the heading "Obviousness-Type," in order to form an obviousness-type double patenting rejection, a claim in the present application must define an invention that is merely an obvious variation of an invention claimed in the prior art patent, and the claimed subject matter must not be patentably distinct from the subject matter claimed in a commonly owned patent. Also, the specification and drawings of the patent principally underlying the double patenting rejection are not considered prior art.

The Official Action asserts that the subject Application and the Tanaka '712 patent "are not patentably distinct from each other because they are both drawn to laser irradiation and associated processing with overlapped laser beams" (Paper No. 20100314, page 9, "Response to Argument"). The Applicant respectfully disagrees and traverses this assertion of the Official Action. The standard for obviousness-type double patenting is not whether the subject application is allegedly drawn to the same or similar subject matter of a prior patent, as the Official Action appears to assert, but whether the claims thereof are obvious variations. Accordingly, the Applicant respectfully traverses the obviousness-type double patenting rejection. In the present application, independent claims 1, 10, 19, 28, 37 and 46 recite, at least, a first pulsed laser beam. Further, claims 1, 19 and 37 recite that a portion of a beam spot of a first laser beam and an entire portion of respective beam spots of second laser beams are overlapped with each other; and claims 10, 28 and 46 recite that a beam spot of a first laser beam is larger than that of a second laser beam. On the other hand, it appears that claims 1-10 of the Tanaka '712 patent do not recite the above-referenced features. Further, although independent claims of the Tanaka '712 patent recite a feature of shaping a

beam into a second beam via a light-blocking film, the claims of the present application do not recite this feature.

Therefore, it is respectfully submitted that the claims of the present application are not a timewise extension of the invention as claimed in the Tanaka '712 patent. Reconsideration and withdrawal of the obviousness-type double patenting rejections are requested.

The Official Action rejects claims 1, 2, 4-11 and 13-18 as obvious based on the combination of U.S. Patent No. 6,700,096 or U.S. Publication No. 2003/0136772 to Yamazaki; Australian Patent Publication No. AU 2003220835 to Otsu and U.S. Patent No. 6,014,401 to Godard. The Official Action rejects claims 19, 20, 22-29, 31-38, 40-47 and 49-54 as obvious based on the combination of Yamazaki '096, Otsu, Godard, U.S. Patent No. 6,242,292 to Yamazaki and U.S. Patent No. 7,132,375 to Yamazaki.

The Official Action appears to reject the Applicant's Verified Translation of the priority document JP-2002-349007, asserting that "the translated text appears to contradict applicant's figures." The Applicant respectfully disagrees and traverses the assertions of the Official Action. The translation does not contradict the Figures of the subject application and the proper focus of the inquiry should be on whether the translation provides support for the subject matter claimed in the present application.

The translation does not contradict the Figures of the subject application. Specifically, Figure 1A illustrates the overlap of a portion of beam spot 10 with the area of beam spot 11. The text portion of the Verified Translation of the priority document corresponding to the above-mentioned illustration states that, for example, "[the] area of the region in which the beam spot 10 of the continuous oscillation YAG laser having a fundamental wave and the beam spot 11 of the continuous oscillation YAG laser having a second harmonic are overlapped corresponds to the area of the beam spot 11 when it is assumed that the beam spot 11 completely overlap the beam spot 10" (emphasis added). Likewise, Figure 1B illustrates the overlap of a portion of beam spot 12 with the area of beam spot 10. The corresponding text of the Verified Translation states that

"[the] area of the region in which the beam spot 10 of the continuous oscillation YAG laser having a fundamental wave and the beam spot 12 of the pulse oscillation excimer laser are overlapped corresponds to the area of the beam spot 10 when it is assumed that the beam spot 10 completely overlap the beam spot 12" (emphasis added). It is respectfully submitted that the important feature – that the areas of the regions of overlap correspond to the areas of beam spot 11 and beam spot 10, respectively – is described clearly in the Verified Translation and would be understood by one of ordinary skill in the art in a manner that is consistent with the Figures.

Furthermore, it is respectfully submitted that one of ordinary skill in the art would readily understand that the Figures illustrate what is described in the above-mentioned direct translations of the priority document. That is, as shown in Figure 1A, the Verified Translation conveys that the entirety (i.e., "the area") of beam spot 11 is overlapped when the beam spots 10 and 11 completely overlap (as opposed to only partially). As shown in Figure 1B, the document conveys that the entirety of beam spot 10 is overlapped when the beam spots 10 and 12 completely overlap.

Moreover, the proper focus of the inquiry should be on whether the translation provides support for the subject matter claimed in the present application. Apparently as justification for denying the benefit of JP-2002-349007, the Examiner appears to assert that a portion of the Verified Translation, which is peripheral to this important feature, taken out of context, and then misquoted, contradicts the Figures. Specifically, the Examiner asserts that "the text states: 'when it is assumed that the beam spot 11 completely overlaps the beam spot 10'" and that "the text states: 'the spot 10 completely overlaps the beam spot 12.'" That is, the Examiner appears to be concerned with a merely semantic issue of whether spot 11 overlaps spot 10, or whether spot 10 overlaps spot 11. However, the text neither states that the beam spot 11 completely overlaps the beam spot 10, nor does it state that the spot 10 completely overlaps the beam spot 12. In any event, as noted above, the important feature conveyed by this portion of the specification, which is omitted in the excerpt of the Verified Translation asserted by the

Examiner, is that the areas of the regions of overlap correspond to the areas of beam spot 11 and beam spot 10. It is respectfully submitted that one of ordinary skill in the art, would understand the portion of the sentences that the Examiner has chosen to omit and, accordingly, would understand the Verified Translation in its totality in a manner consistent with the Figures.

Accordingly, the Applicant respectfully submits that the Verified Translation of priority application JP 2002-349007 filed November 29, 2002, is proper and supports what is claimed in the subject Application. Since Otsu has a publication date of September 22, 2003, which is later than the filing date of JP '007, the Applicant again respectfully submits that the rejections under § 103 should be overcome. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c) and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280.

Respectfully submitted,



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